

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Twin River Beach Road * ZONING COMMISSIONER
260 ft. E of Yale Road *
13028 Twin River Beach Rd. * OF BALTIMORE COUNTY
15th Election District *
5th Councilmanic District * Case No. 92-233-A
David W. Huth, et ux *
Petitioners * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Zoning Variance from Section 431.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners request permission to allow a commercial vehicle (tractor) with a gross vehicle weight of greater than 10,000 pounds to be parked in a garage on D.R. zoned land (residential lot), as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners/property owners, David W. and Carol Ann Huth, appeared and testified at the public hearing. Also appearing on behalf of the Petition was Sue Zack, a resident of the surrounding community. There were no Protestants present at the hearing, although four (4) letters opposing the Petition were received. All of the letters were anonymous. Additionally, three (3) were typewritten and appeared to have been prepared on the same typewriter. As is true in all circumstances such as this, I will assign the evidentiary weight to these letters which I deem appropriate, and consider that they are written anonymously and that their authors did not appear at the hearing.

Testimony elicited from the Petitioners was that they reside at the property known as 13028 Twin River Beach Road. The Petitioners testified they own two adjacent lots at that address. According to Mr. Huth, lot No. 1 is unimproved wetlands and is not developable. Lot No. 2, which

is .42 acres in size and is 180 ft. deep by 100 ft. wide in dimension, is improved with a 1 story framed dwelling and existing garage and pool. There is also a wooden deck and porch attached to the dwelling.

Mr. Huth indicated that he is self employed as a tractor trailer driver. He owns a Kenworth Model Tractor which weighs approximately 12,000 pounds. Although he does not own any trailers, he is frequently under contract with Allied Vanlines and the Container Port Company to haul trailers for those companies. He testified that, because of the irregular hours associated with his occupation, he was frequently required, after delivering the trailer to its destination, to temporarily park his tractor on his property. That is, frequently, the commercial yard where he regularly stores the tractor is closed and he will bring his tractor home. He also testified that, on rare occasions, he brings a trailer attached to the tractor to the site. On these occasions, he might arrive at home at a late hour and will remove the tractor and trailer to its commercial destination early the next morning. Due to these demands imposed by his occupation, he seeks a variance to permit parking of the tractor on site.

Mr. and Mrs. Huth also described the surrounding neighborhood. They testified that, but for their immediate neighbors, Mr. and Mrs. Spangler, there is no residential development in the immediate area. Further, immediately across Twin River Beach Road from the Petitioners' property, there is the Conrail Railroad tracks. These are frequently in use by the Amtrak Passenger Line. Thus, the Petitioner argues that the area adjoins a vital transportation line in that the trains are frequently passing in front of the house. He, therefore, does not believe that parking of the tractor at the site is out of character with heavy transportation uses in the neighborhood.

Further, he argued that the parking of the tractor on the site is not detrimental to the surrounding locale.

As indicated above, Mrs. Sue Zack, a resident of the community, also appeared on behalf of the Petition. She indicated that none of the members of the community, nor the community association, have any objection to the variance, as proposed.

The Petitioner also testified that he owns a second tractor which weighs less than 10,000 pounds. He testified that this tractor is most always kept in the existing garage and out of site on his property. He considers this second tractor similar to an antique/restored vehicle. He also testified that it is not used by him unless there is a mechanical breakdown of the Kenworth vehicle. He further testified that the existing garage, which is approximately 24 x 48 ft. is large enough to accommodate both tractors simultaneously.

Based upon the testimony presented, it is apparent that the Petitioner requires a variance beyond what he has requested. That is, Section 431.B of the B.C.Z.R. permits the storage of only one commercial vehicle per dwelling. Thus, the Petitioner not only requires a variance for the tractor which weighs over the prescribed limit of 10,000 pounds, but also a variance to permit both vehicles to be parked on site. I shall, therefore, amend the Petition to bring same into compliance with the testimony.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel and the immediate locale. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Although, I am persuaded to grant the variances, same shall be restricted. Although the Conrail tracks about the property, the property, itself, is zoned residentially and is within a residential community. Thus, the variance shall be granted so as to minimize any affect on the surrounding dwellings.

Further, the subject property is located within the Chesapeake Bay Critical Area. However, the Petition does not propose any development activities and is, therefore, not subject to Critical Area Development Regulations, (See Department of Environmental Protection and Resource Management Zoning Advisory comments dated January 7, 1992).

ORDER RECEIVED FOR FILING
Date 1/14/92
By M. Huth

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Date 1/14/92
By M. Huth

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of January, 1992 that a variance from Section 431.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) for permission to allow a commercial vehicle (tractor) with a gross vehicle weight of greater than 10,000 pounds to be parked in a garage on D.R. zoned land (residential lot), in accordance with Petitioners' Exhibit No.1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 431.B of the B.C.Z.R. to permit the parking of a second commercial vehicle (tractor) weighing less than 10,000 pounds to be parked in a garage on D.R. zoned land (residential lot), be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall park both commercial vehicles owned by them only in the garage located in the rear of the property, as shown on Petitioners' Exhibit No. 1.
3. The Petitioners shall not allow any parking and/or storage of trailers on the property.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 14, 1992

Mr. and Mrs. David W. Huth
13028 Twin River Beach Road
Baltimore, Maryland 21220

RE: Petition for Zoning Variance
Case No. 92-233-A

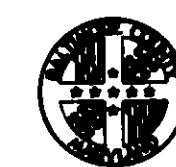
Dear Mr. and Mrs. Huth:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 867-3391.

Very truly yours,
Lawrence E. Schmidt
Zoning Commissioner

LES:mmm
att.



Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 431.B.1 to allow a commercial vehicle (tractor) with a gross vehicle weight of greater than 10,000 lbs. to be parked in a garage on DR zoned land (residential lot)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

* See attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):

David W. Huth

(Type or Print Name)

Signature

Carol Ann Huth

(Type or Print Name)

Signature

13028 Twin River Beach Rd.

Baltimore, Md. 21220

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.

AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER DATE

REVIEWED BY: DAG DATE

ORDER RECEIVED FOR FILING
Date 1/14/92
By M. Huth

LES:mmm

ITEM# 246
92-233-A
ZONING DESCRIPTION
#13028 TWIN RIVER BEACH ROAD
LOT-2 "HAREWOOD PARK - PLAT-2"
C.H.K., JR. 13, FOLIO-144
15th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME ALONG
THE NORTH SIDE OF TWIN RIVER BEACH ROAD.
SAID POINT OF BEGINNING BEING LOCATED
260.00 FEET DISTANT FROM THE CENTERLINE
INTERSECTION OF YALE ROAD AND
TWIN RIVER BEACH ROAD. THENCE
RUNNING THE FOLLOWING COURSES AND
DISTANCES :

- 1) NORTH-51 DEGREES-31 MINUTES-30 SECONDS-WEST, 185.00 FEET
 - 2) NORTH-40 DEGREES-34 MINUTES-30 SECONDS-EAST, 100.00 FEET
 - 3) SOUTH-51 DEGREES-31 MINUTES-30 SECONDS-EAST, 185.00 FEET
 - 4) SOUTH-40 DEGREES-34 MINUTES-30 SECONDS-WEST, 100.00 FEET
- TO THE POINT OF BEGINNING AND CONTAINING
0.42 ACRES OF LAND MORE OR LESS.

BEING ALSO KNOWN AS #13028
TWIN RIVER BEACH ROAD.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 12/15/91
Posted for: Variance
Petitioner: David W. and Carol Ann Ruth
Location of property: N/S Twin River Beach Road, 260' E of Yale Road
13028 Twin River Beach Road
Location of Sign: Mary Ruth, Carol Ann Ruth, David W. Ruth
Remarks: Variance
Posted by: [Signature] Date of return: 12/20/91
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1919

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on 12/15/91.

THE JEFFERSONIAN,

S. Zeke Olson

Publisher

\$70.74

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published
in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES
REPORTER, weekly newspapers published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 12/15/91.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zeke Olson
Publisher

\$70.74

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-6150
Number:

CRITICAL

Date: 12/22/91 H9200266
PUBLIC HEARING FEES: \$35.00
010 - ZONING VARIANCE - 010.0 \$35.00
TOTAL: \$35.00
LAST NAME OF OWNER: DUTCH
Please Make Checks Payable To: Baltimore County
BA 000422P12-02-91

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-6150
Number:

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

REF: 1-3-92

David W. and Carol Ann Ruth
13028 Twin River Beach Road
Baltimore, Maryland 21220

RE:
CASE NUMBER: 92-233-A
N/S Twin River Beach Road, 260' E of Yale Road
13028 Twin River Beach Road
15th Election District - 5th Councilmanic District
Petitioner(s): David W. and Carol Ann Ruth

Dear Petitioner(s):

Please be advised that \$ 95.76 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Carl Johnson

ARNDT JARON
DIRECTOR

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DECEMBER 11, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-233-A
N/S Twin River Beach Road, 260' E of Yale Road
13028 Twin River Beach Road
15th Election District - 5th Councilmanic District
Petitioner(s): David W. and Carol Ann Ruth
HEARING: WEDNESDAY, JANUARY 8, 1992 at 2:00 p.m.

Variance to allow a commercial vehicle (tractor) with a gross vehicle weight of greater than 10,000 pounds to be parked in a garage on D.R. zoned land (residential lot).

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: David and Carol Ruth

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 26, 1991

Mr. & Mrs. David W. Ruth
13028 Twin River Beach Road
Baltimore, MD 21220

RE: Item No. 246, Case No. 92-233-A
Petitioner: David W. Ruth, et ux
Petition for Variance

Dear Mr. Ruth:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with above referenced petition. The attached comments from each reviewing agency are not intended to assure that that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- 1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments
Date: December 26, 1991
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All Petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures



(410) 887-3353

111 West Chesapeake Avenue
Towson, MD 21204

Your petition has been received and accepted for filing
this 2nd day of December, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

James E. Dieter
CHAIRMAN
ZONING PLANS ADVISORY COMMITTEE

Petitioner: David W. Huth, et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: December 17, 1991
Zoning Administration and
Development Management
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Huth Property, Item No. 246

In reference to the Petitioner's request, staff provides
the following comments:

This office supports the applicant's request provided that
the tractor is stored within an enclosed garage at all times.

If there should be any further questions or if this office can
provide additional information, please contact Jeffrey Long in the
Office of Planning at 887-3211.

PK/JL:rdn

ITEM246/TXTROZ

BALTIMORE COUNTY
ECONOMIC DEVELOPMENT COMMISSION

Memorandum

TO: Julie Winiarski
Office of Zoning Administration and
Development Management
FROM: A. J. Haley, Acting Director
Economic Development Commission
DATE: December 20, 1991
RE: Zoning Advisory Comments for Meeting of December 17, 1991

This office has no comment for items 92-1, 233, 237, 245, 246, 247, 248,
249, 250, 251, 252 or 253.

RECEIVED
DEC 26 1991

ZONING OFFICE

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: January 7, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
FROM: Rahee J. Famili
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: December 17, 1991

This office has no comments for item numbers 233, 245, 246, 247, 248,
249, 250, 251, 252 and 253.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

JANUARY 6, 1992

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: DAVID W. HUTH AND CAROL ANN HUTH
Location: #13028 TWIN RIVER BEACH ROAD

Item No.: 246 Zoning Agenda: DECEMBER 17, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by
this Bureau and the comments below are applicable and required to be
corrected or incorporated into the final plans for the property.

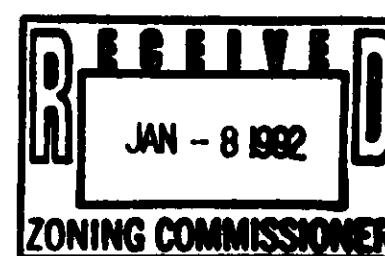
7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *James E. Dieter* Noted and
Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/REK

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
FROM: J. James Dieter
SUBJECT: Petition for Zoning Variance - Item 246
Huth Property
Chesapeake Bay Critical Area Findings



SITE LOCATION

The subject property is located at 13028 Twin River Beach Road.
The site is within the Chesapeake Bay Critical Area and is classified
as a Limited Development Area (LDA).

APPLICANT'S NAME David W. and Carol Ann Huth

APPLICANT PROPOSAL

The applicant has requested a variance from section 431.81 of the
Baltimore County Zoning Regulations to permit a commercial vehicle
(tractor) with a gross vehicle weight of greater than 10,000 pounds to
be parked in a garage on DR zoned land (residential lot).

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all
project approvals shall be based on a finding which assures that
proposed projects are consistent with the following goals of the
Critical Area Law:

1. Minimize adverse impacts on water quality that result from
pollutants that are discharged from structures or conveyances
or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake
Bay Critical Area which accommodate growth and also address
the fact that even if pollution is controlled, the number,
movement, and activities of persons in that area can create
adverse environmental impacts.

<COMAR 14.15.10.01.0>

Mr. Arnold Jablon
January 7, 1992
Page 2

DEFINITIONS

"Development Activities" means the construction or substantial
alteration of residential, commercial, industrial, institutional, or
transportation facilities or structures.

Finding: This project does not propose any development
activities as defined above, and is therefore not subject to Critical
Area Development Regulations.

CONCLUSION

This project does not require a Findings because of the reason
stated above. If there are any questions, please contact Ms. Patricia
Farr at 887-2904.

J. James Dieter
J. James Dieter, Director
Department of Environmental Protection
and Resource Management

JJD:SR0:tjl

cc: Mr. and Mrs. David Huth

HUTH/MQBCBA

92-233-A 1-872

CHESAPEAKE BAY CRITICAL AREA
FINDINGS
The subject property is located at 13028 Twin River Beach Road.
The site is within the Chesapeake Bay Critical Area and is classified
as a Limited Development Area (LDA).
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(tractor) with a gross vehicle weight of greater than 10,000 pounds to
be parked in a garage on DR zoned land (residential lot).

Robert W. Bowline
Robert W. Bowline
Traffic Engineer II



ITEM #246
92-233-A

